

***** Proposed Language – DRAFT *****

050. MINIMUM STANDARDS FOR EMPLOYMENT.

Every peace, county detention, juvenile detention, misdemeanor probation, and juvenile probation officer and Idaho Department of Juvenile Corrections direct care staff must meet the requirements in Sections 050 through 065. In situations where the POST Division Administrator has the authority to grant a waiver, but chooses not to, the application must be referred to the POST Council for consideration. (4-11-15)

051. CITIZENSHIP.

The applicant shall be a citizen of the United States. (4-2-08)

01. Documentation. Proof of citizenship shall not have been mutilated, altered, or damaged, and shall be in the form of one (1) of the following: (4-2-08)

- a. Birth certificate issued by the city, county, or state and filed within one (1) year of birth; (4-2-08)
- b. Naturalization Certificate; (4-2-08)
- c. U.S. passport; (4-2-08)
- d. Consular Report of Birth Abroad or Certification of Birth; or (4-2-08)
- e. Certificate of Citizenship. (4-2-08)

052. EDUCATION.

01. Acceptable Education. The applicant must: (3-18-15)

- a. Be a high school graduate from a school accredited as a high school at the time of graduation by the Department of Education of the state in which the high school is located; (3-18-15)
- b. Be a high school graduate from a school accredited as a high school at the time of graduation by the recognized regional accreditation body; (3-18-15)
- c. Have passed GED testing; (3-18-15)
- d. Have successfully completed a high school equivalency program and obtained a state-issued certificate; or (3-18-15)
- e. Have successfully completed a minimum of fifteen (15) academic credits at a U.S. regionally accredited college. The six (6) POST-accepted regional accreditation agencies are: (3-18-15)
 - i. Middle States Association of Schools and Colleges; (3-18-15)
 - ii. New England Association of Schools and Colleges; (3-18-15)
 - iii. North Central Association of Colleges and Schools (the Higher Learning Commission); (3-18-15)
 - iv. Northwest Association of Colleges and Universities; (3-18-15)

v. Southern Association of Colleges and Schools; and (3-18-15)

vi. Western Association of Schools and Colleges. (3-18-15)

02. Foreign Education. Applicants who were educated outside the U.S. must provide documentation of having passed GED testing or provide an evaluation from an evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or Association of International Credential Evaluators, Inc. (AICE) showing the applicant's education meets or exceeds the U.S. requirements for high school graduation. (3-18-15)

03. Documentation. Proof of education must not have been mutilated, altered, or damaged, and must be in the form of a photocopy of one (1) of the following: (3-18-15)

a. High school diploma that indicates the date of graduation; (3-18-15)

b. High school transcript that indicates the date of graduation; (3-18-15)

c. Official transcript of GED results indicating a passing score; (3-18-15)

d. State-issued high school equivalency certificate; (3-18-15)

e. Official college transcript from a POST-accepted U.S. regionally-accredited college indicating the successful completion of a minimum of fifteen (15) academic credits; or (3-18-15)

f. Official evaluation of foreign education by a member of the National Association of Credential Evaluation Services (NACES) or Association of International Credential Evaluators, Inc. (AICE) showing the applicant's education meets or exceeds the U.S. requirements for high school graduation. (3-18-15)

054. CHARACTER.

01. Moral Turpitude. The POST Council may take into consideration the commission of any act or offense involving moral turpitude to ensure an applicant is of good moral character and warrants the public trust. "Moral turpitude" is conduct that is contrary to justice, honesty, or morality. The purpose of this requirement is to prohibit persons who engage in dishonest, unprofessional, unethical, or immoral conduct from becoming law enforcement officers, and to protect against acts or conduct that might endanger the safety and welfare of the public. (4-11-15)

02. Applicant May Be Rejected. An applicant may be rejected who has committed any unlawful act involving moral turpitude, even though the applicant has never been charged by a law enforcement agency for such act. (4-11-15)

03. Applicant May Be Accepted. If an applicant committed any unlawful act involving moral turpitude, the applicant may be accepted upon approval of the POST Division Administrator, provided the applicant's agency head, with knowledge of the facts and circumstances concerning the act, recommends approval. (4-11-15)

055. DRUG USE.

01. Marijuana. An applicant must be rejected who has used marijuana: (3-20-14)

a. Within the past three (3) years; (3-20-14)

b. While employed as a law enforcement officer, in a prosecutorial position, or in a position of public safety, regardless of when the use occurred; or (3-20-14)

c. On a regular, confirmed basis within the past five (5) years. (3-20-14)

d. This prohibition includes use of cannabis, hashish, hash oil, and THC in both synthetic and natural forms. (4-11-15)

02. Other Controlled Substances. An applicant must be rejected who has illegally used any Schedule I through Schedule VI controlled substance, as defined in Sections 37-2705 through 37-2713A, Idaho Code, excluding marijuana: (4-11-15)

a. Within the past five (5) years; (3-20-14)

b. While employed as a law enforcement officer, in a prosecutorial position, or in a position of public safety, regardless of when the illegal use occurred; or (3-20-14)

c. On more than a minimal and experimental basis during the applicant's lifetime. (3-20-14)

03. Prescription Drugs. An applicant may be rejected who has unlawfully used any prescription drug or a legally obtainable controlled substance within the past three (3) years. (4-11-15)

04. Drug Trafficking, Manufacturing, and Related Offenses. Subject to the rules above regarding use of controlled substances, an applicant must be rejected who has violated any provision of: (4-11-15)

a. The Idaho Uniform Controlled Substances Act, Section 37-2701 et seq., Idaho Code, including, but not limited to, the illegal sale or manufacture of a controlled substance or conspiring to illegally sell or manufacture a controlled substance; or (3-20-14)

b. A comparable statute of another state or country. (3-20-14)

c. Provided, however, that the POST Division Administrator may waive any misdemeanor conviction for violation of the Idaho Uniform Controlled Substances Act. (4-11-15)

05. Juvenile Drug Offense Convictions. Any misdemeanor conviction of a drug offense prosecuted pursuant to Title 18, Chapter 15, Idaho Code, or a comparable statute of another state or country, shall not be a basis for rejection of an applicant. However, an applicant may be rejected who has been convicted of a felony drug offense prosecuted pursuant to Title 18, Chapter 15, Idaho Code. If an applicant has been convicted of such a felony drug offense, the applicant may be accepted upon approval of the POST Division Administrator, provided the applicant's agency head, with knowledge of the facts and circumstances concerning the offense or violation, recommends approval. (4-11-15)

056. CRIMINAL RECORD.

01. Fingerprints. The applicant shall be fingerprinted on two (2) copies of the standard FBI Applicant fingerprint form, and a search made of local, state, and national fingerprint files to disclose any criminal record. The original copies of all records check results shall be retained by the POST Council. (4-2-03)

02. Conviction. The term "conviction" shall include: (4-2-03)

a. Any conviction in a federal, tribal, state, county, or municipal court; (3-15-02)

b. A voluntary forfeiture of bail, bond, or collateral deposited to secure a defendant's appearance in court as final disposition; (3-15-02)

c. The payment of a fine; (3-15-02)

d. A plea of guilty, nolo contendere; or (3-15-02)

e. A finding of guilt, notwithstanding the form of judgment or withheld judgment, regardless of whether the sentence is imposed, suspended, deferred, or withheld, and regardless of whether the plea or conviction is set aside or withdrawn, or the case or charge is dismissed or reduced, or the record expunged under Section 19-2604, Idaho Code, or any other comparable statute or procedure, where the setting aside of the plea or conviction, or dismissal or reduction of the case or charge, or expungement of the record is based upon lenity or the furtherance of rehabilitation rather than upon any defect in the legality or factual basis of the plea, finding of guilt, or conviction. (3-29-12)

03. Misdemeanor Conviction. A misdemeanor conviction of any federal, state, or local crime may be grounds for rejection of an applicant, subject to the following provisions: (3-20-14)

a. An applicant shall be rejected who has been convicted of any misdemeanor sex crime or crime of deceit, unless the conviction occurred more than five (5) years prior to application and the applicant's agency head files a written request for review with the POST Council. In the case of a willful concealment or petit theft conviction, the applicant may be accepted upon approval of the POST Division Administrator, and the Division Administrator shall have the discretion to refer the application to the POST Council. In all other cases, the POST Council shall review the application and determine whether the applicant shall be certifiable in the State of Idaho. (3-20-14)

b. An applicant shall be rejected who has been convicted of one (1) or more misdemeanor DUI offenses within the two (2) years immediately preceding application. No waivers to this rule shall be granted by the POST Council. (3-20-14)

c. An applicant shall be rejected who has been convicted of two (2) or more misdemeanor DUI offenses within the five (5) years immediately preceding application. No waivers to this rule shall be granted by the POST Council. (3-20-14)

d. An applicant who is not subject to the provisions of subsections (b) and (c) above may be rejected if the applicant has been convicted of one (1) or more misdemeanor DUI offenses within ten (10) years prior to application. Such an applicant may be accepted upon approval of the POST Division Administrator, provided the applicant's agency head, with knowledge of the facts and circumstances concerning the offense or violation, recommends approval. The POST Division Administrator shall have the discretion to refer the application to the POST Council. This rule is not a basis for rejection of an applicant if the conviction occurred ten (10) or more years prior to application. (3-20-14)

e. An applicant may be rejected who has been convicted of any other misdemeanor offense within the two (2) years immediately preceding application. If the misdemeanor conviction occurred within the two (2) years immediately preceding application, the applicant may be accepted upon approval of the POST Division Administrator, provided the applicant's agency head, with knowledge of the facts and circumstances concerning the offense or violation, recommends approval. The Division Administrator shall have the discretion to refer the application to the POST Council. (3-20-14)

f. An applicant may be rejected who has been convicted of any other misdemeanor offense two (2) or more years but less than ten (10) years prior to application. If the misdemeanor conviction occurred two (2) or more years but less than ten (10) years prior to application, the applicant may be accepted upon approval of the POST Division Administrator, provided the applicant's agency head, with knowledge of the facts and circumstances concerning the offense or violation, recommends approval. The POST Division Administrator shall have the discretion to refer the application to the POST Council. This rule is not a basis for rejection of an applicant if the conviction occurred ten (10) or more years prior to application. (3-20-14)

g. Any misdemeanor conviction prosecuted pursuant to Title 18, Chapter 15, Idaho Code, or a comparable statute of another state or country, shall not be a basis for rejection of an applicant. (3-20-14)

04. Felony Conviction. An applicant shall be rejected who has been convicted of any felony crime, the punishment for which could have been imprisonment in a federal or state penal institution, unless the felony conviction occurred before the applicant was eighteen (18) years of age and ten (10) or more years prior to application. If the conviction occurred before the applicant was eighteen (18) years of age and ten (10) or more years prior to application, the applicant may be accepted upon approval of the POST Division Administrator, provided the applicant's agency head, with knowledge of the facts and circumstances concerning the offense or violation, recommends approval. The POST Division Administrator shall have the discretion to refer the application to the POST Council. For the purpose of this rule, a felony conviction shall be considered a felony conviction regardless of whether the conviction is later reduced to a misdemeanor conviction under Section 19-2604, Idaho Code, or any other comparable statute or procedure, where the reduction is based upon lenity or the furtherance of rehabilitation rather than upon any defect in the legality or factual basis of the felony conviction. No waivers to this rule shall be granted by the POST Council. (3-20-14)

057. MILITARY RECORD.

01. Military Discharge. A "dismissal," "bad conduct discharge" (BCD), "dishonorable discharge" (DD), or administrative discharge of other than honorable (OTH) from the military service shall disqualify the applicant. The administrative discharge of "general under honorable conditions" (GEN), a "general" discharge, or an "uncharacterized" discharge may be grounds for rejection. In the case of a "general under honorable conditions" or "uncharacterized" discharge, the applicant may be accepted upon approval of the POST Division Administrator. The Division Administrator shall have the discretion to refer the application to the POST Council. In the case of a "general" discharge, the POST Council shall review the application and determine whether the individual shall be certifiable as a peace, detention, juvenile detention, juvenile probation, adult probation and parole, emergency communications officer, or adult misdemeanor probation officer or as a direct care staff member of the Idaho Department of Juvenile Corrections in the state of Idaho. (4-7-11)

02. Documentation. Proof of military record shall not have been mutilated, altered, or damaged; shall indicate character of service; and shall be in the form of a photocopy of the following: (4-7-11)

a. DD-214 for any active military service, (4-7-11)

b. NGB Form 22 for any National Guard service, and (4-7-11)

c. AF-216 for any Air Force service. (4-7-11)

058. TRAFFIC RECORD INVESTIGATION.

01. Requirements. (7-1-93)

a. The applicant shall possess a valid driving license from his state of residence and qualify for an Idaho driver's license. (3-15-02)

b. An applicant with a record of a driver's license suspension in any jurisdiction, or a driving without privileges conviction or an equivalent conviction in any other jurisdiction, may be accepted upon approval of the POST Division Administrator provided the suspension concluded or conviction occurred more than two (2) years prior to application and the applicant's agency head, with knowledge of the facts and circumstances concerning the suspension or conviction, recommends approval. The Division Administrator shall have the discretion to refer the application to the POST Council. If the suspension concluded or conviction occurred during the two (2) years immediately preceding application, the POST Council shall review the application and determine whether the individual shall be certifiable as a peace, detention, emergency communications officer, or juvenile detention officer in the state of Idaho. (3-15-02)

c. Where the applicant's traffic record discloses the commission of five (5) or more moving traffic offenses during the three (3) years immediately preceding application, the POST Council shall review the application and determine whether the individual shall be certifiable as a peace, detention, emergency communications officer, or juvenile detention officer in the state of Idaho. (3-15-02)

02. Procedures. At a minimum, a check of driving records shall be made of the Motor Vehicle Division, Highway Department, state of Idaho, and the files of the motor vehicle department in the states of the applicant's previous residences. (3-15-02)

059. BACKGROUND INVESTIGATION.

01. Requirements. The applicant shall have undergone a comprehensive background investigation, the results of which attest to the fact that the person meets the minimum standards for employment, has not engaged in conduct or a pattern of conduct that would jeopardize public trust in the law enforcement profession, and is of good moral character. Consideration will be given to any and all law violations, including traffic and fish and game infractions or convictions. (3-15-02)

02. Procedures. (3-15-02)

a. The applicant shall complete and submit to the appointing agency a comprehensive application and personal history statement prior to the start of the background investigation. The history statement shall contain questions which aid in determining whether the applicant is eligible for certified status as a peace, detention, juvenile detention, emergency communications officer, or juvenile probation officer. The background investigation shall include information provided by personal references, schools, and the last three (3) previous employers, as well as agency records in jurisdictions where the applicant has lived or worked. This information shall be recorded and retained by the appointing agency. (4-2-08)

b. The appointing agency shall conduct a personal interview with the applicant to ascertain personal attributes such as personal appearance, demeanor, attitudes that are relevant to the law enforcement

mission, judgment, maturity, resourcefulness, and ability to communicate. Searching questions shall be asked about: (3-15-02)

i. Use of intoxicants, narcotics and drugs; (3-15-02)

ii. Physical, mental, and emotional history; (3-15-02)

iii. Family problems; (3-15-02)

iv. Moral outlook and habits; and (3-15-02)

v. Financial transactions. (3-15-02)

c. The appointing agency shall have a thorough investigation into the character and reputation of the applicant conducted by an experienced investigator. The applicant's morality, integrity, reputation, honesty, dependability, qualifications, experience, associations, emotional stability, prejudice, and loyalty shall be explored. (3-15-02)

d. All results of the background investigation shall be considered confidential and processed accordingly. (3-15-02)

e. The results of the background investigation shall ultimately be evaluated by the agency head and/or the appointing authority to determine whether the applicant is suitable.